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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,623	04/03/2001	Robert Brian Dianda	50001-10370	3829
47377	7590	10/28/2004	EXAMINER	
JENNER & BLOCK LLP ONE IBM PLAZA CHICAGO, IL 60611				JUNTIMA, NITTAYA
		ART UNIT		PAPER NUMBER
		2663		

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/825,623	DIANDA ET AL.
	Examiner Nittaya Juntima	Art Unit 2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 4/3/2001.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7 and 9-15 is/are rejected.
- 7) Claim(s) 8 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/3/2001</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because in Figs. 1-5, items 102 and 104 require descriptive text labels, e.g. "MAG" is "Media Access Gateway."

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claims 1, 6, 9, and 14 are objected to because of the following informalities:

- in claims 1, 9, and 14, ll 1, "ATM" should be spelled out to avoid any confusion; and
- in claim 6, ll 1, "one of" should be deleted.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-7, and 9-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art (Fig. 1) in view of Rogers et al. (USPN 5,617,471).

Per claim 1, as shown in Fig. 1, the admitted prior art teaches that a first ATM call (124) is established between a first party (120) and a second party (116) and a second ATM call (128) is established between the second party (116) and a third party (118), wherein the first ATM call includes a plurality of segments (124a-124d) that are coupled to a plurality of ATM switches (ATM switches 1, 2, and 3) to provide a virtual connection (an ATM connection must be establish to accommodate ATM call 124), and wherein the second ATM call includes a plurality of segments (128a-128d) that are coupled to a plurality of ATM switches (ATM switches 1, 2, and 4) to provide a virtual connection (an ATM connection must be establish to accommodate ATM call 128). See page 2, ll 11-page 3, ll 1-6.

However, the admitted prior fails to teach the method steps as recited in the claim.

In an analogous art, Figs. 1 and 2, Rogers et al. teach the following steps:

a switch (switch A) coupled to a second party (user A) receiving a message (a message sent to switch A to carry out the transfer) to transfer a first call (a call between user A and user B) to a second call (a call between user A and user C) to connect the first party (user B) and a third party (user C);

the switch (switch A) connecting a first segment (call leg A-B 3) of the first call to a first segment (call leg A-C 5) of the second call (a call between user A and user C);

the switch (switch A) releasing a second segment (voice channel 13) of the first call (a call between user A and user B) that extends from the switch (switch A) to the second party (user A); and

the switch (switch A) releasing a second segment (voice channel 15) of the second call (a call between user A and user C) that extends from the switch (switch A) to the second party (user A). See col. 3, ll 23-30, 38-40, 47-51, 60-65, and col. 4, ll 5-24.

Given the teaching of Rogers et al., it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of the admitted prior art to include the steps of an ATM switch (i.e. ATM switch 1) coupled to the second party receiving a message to transfer the first call to the second call to connect the first party and the third party; the ATM switch connecting a first segment (i.e. 124a-124c) of the first call to a first segment (i.e. 128a-128c) of the second call; the ATM switch releasing a second segment (i.e. 124d) of the first call that extends from the ATM switch to the second party; and the ATM switch releasing a second segment (i.e. 128d) of the second call that extends from the switch to the second party as recited

in the claim. The motivation/suggestion to do so would have been to make the network facilities available for additional calls to the user, i.e. user 116, as taught by Rogers et al. (col. 4, ll 23-24).

Per claims 2 and 3, the admitted prior art does not teach that the message includes a first identifier for the first ATM call and a second identifier for the second ATM call wherein the first identifier is a call reference for the first ATM call and the second identifier is a call reference for the second ATM call.

Rogers et al. teach that the message (a message sent to switch A to carry out the transfer) includes a first identifier (call leg A-B 3) for the first call and a second identifier (call leg A-C 5) for the second call, wherein the first identifier is a call reference for the first call and the second identifier is a call reference for the second call (a message sent to switch A to carry out the transfer must include call legs A-B 3 and A-C 5 in order for the call legs to be bridged, col. 3, ll 38-40 and col. 4, ll 18-24).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to modify the teaching of the admitted prior art to include the that the message includes a first identifier for the first ATM call and a second identifier for the second ATM call, wherein the first identifier is a call reference for the first ATM call and the second identifier is a call reference for the ATM second call in order to inform the switch which calls are part of the transfer as taught by Rogers et al. (col. 3, ll 38-40).

Per claim 4, as shown in Fig. 1, the admitted art teaches that the second party (116) is coupled to the ATM switch (ATM switch 1) by a media access gateway (MAG 102 connecting to 116), but does not explicitly teach that the media access gateway sends the message to the ATM switch. However, Fig. 1 of the admitted prior art shows that the media access gateway 102

is connected and communicated to ATM switch 1, and Rogers et al. teach that the message (the transfer request) is sent from user A to the switch A through CPE 4 (col. 3, ll 38-40 and col. 4, ll 18-20). Therefore, it would have been obvious to one skilled in the art to include in the combined teaching of the admitted prior art and Rogers et al. that the media access gateway sends the message to the ATM switch in order for the message, i.e. transfer request, to be forwarded to and executed by the switch, i.e. ATM switch 1.

Per claim 5, as shown in Fig. 1, the admitted prior art discloses that the media access gateway is coupled to a call control entity (CCE 104 connecting to MAG 102 which is connected to telephone 116) that receives a request from the second party (116) to transfer the first ATM call (124) to the second ATM call (128) and wherein the media gateway generates a message (a message to instruct ATM switch 1 that a new ATM establishment is needed) under control of the call control entity in response to the request from the second party. See page 1, ll 20-27 and page 3, ll 13-23.

The difference between the claimed message generated by the media gateway in response to the request from the second party is that the message of prior art instructs the media access gateway and thereby the ATM switch 1 to establish a new ATM connect, page 3, ll 17-23, rather than instructing the ATM switch 1 to transfer the first ATM call to the second ATM call in order to connect the first party and the third party as recited in claim 1.

However, in an analogous art, Rogers et al. teach that a message is received in response to the transfer request from user A at switch A to carry out the transfer of the first call between users A and B to the second call between users A and C in order to connect users B and C, see col. 3, ll 38-40 and col. 4, ll 18-24.

Therefore, it would have been obvious to one skilled in the art to modify the teaching of the prior art such that the message generated by the media gateway under control of the call control entity in response to the request from the second party would be to transfer the first ATM call to the second ATM call in order to connect the first party and the third party as recited in claim 1. The motivation/suggest to do so would have been to enable the switch, i.e. ATM switch 1, to bridge the respective call segments and release the appropriate call segments connecting to the switch in order to make network facilities available for additional calls to the user, i.e. user at telephone 116, as taught by Rogers et al. (col. 4, ll 18-24).

Per claim 6, the admitted prior art teaches that the media access gateway is a trunk access gateway.

Per claim 7, the combined teaching of the admitted prior art and Rogers et al. does not explicitly teach that the message is received by the ATM switch via the first segment of the first ATM call. However, since the network structure in Fig. 1 of the admitted prior art shows that the media access gateway 102 coupled to telephone 116 is connected and communicated to the ATM switch 1 via the segment 124d, it would have been obvious to one skilled in the art at the time the invention was made to modify the combined teaching of the admitted prior art and Rogers et al. to include that the message is received by the ATM switch via the second segment (i.e. 124d) of the first ATM call in order to optimize the utilization of network resources by using the bandwidth of the existing connection such as the second segment of the first call.

Claims 9-13 are apparatus claims corresponding to method claims 1-5, respectively, and therefore are rejected under the same reason set forth in the rejection of claims 1-5, respectively. Note that a caller in claim 9 refers to user at telephone 116 in Fig. 1 of the admitted prior art.

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Claims 14 and 15 are apparatus claims containing similar limitations to those of claims 1, 4, and 5, and therefore are rejected under the same reason set forth in the rejection of claims 1, 4, and 5.

*Allowable Subject Matter*

5. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nittaya Juntima whose telephone number is 571-272-3120. The examiner can normally be reached on Monday through Friday, 8:00 A.M - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nittaya Juntima  
October 22, 2004

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